

1 “MOTION TO STAY DISCOVERY”, but it was a motion to stay proceedings of this action,
 2 citing *Keating, Heck, and Younger*.

3 On July 19, 2023, Although, 1) Plaintiff is holding off on adding a claim for malicious
 4 prosecution until the criminal claims so Heck doesn’t apply, 2) Plaintiff is not a state employee
 5 so *Keating* doesn’t apply, and Defendants’ Motion covered no *Landis* factors, Plaintiff filed a
 6 response in the way of a non-opposition to the Motion at ECF No. 34. However, Defendants’
 7 Motion clearly didn’t raise the issue that plaintiff would be unable to state a claim, requesting
 8 only a stay of discovery under *Wood v. McEwen*, 644 F.2d 797, 801-02 (9th Cir. 1981).

9 On July 21, 2023, this Court granted the Motion , not in part, in an order (“Order”) at
 10 ECF No. 35, effectively staying motion practice and discovery. Although, the Order said that
 11 some discovery and scheduling would continue after a ruling on the motion to dismiss at ECF
 12 No. 15.

13 On October 23, 2023, this Court ruled on the motion to dismiss (ECF No. 44), requiring
 14 some discovery and scheduling to continue (per the Order), but did not lift its stay on the
 15 proceedings. The state court criminal proceedings are still pending.

16 On November 9, 2023, this Court ruled (ECF No. 48) that Plaintiff could participate in
 17 motion practice related to ECF No. 44 until November 27, 2023. Although motion practice has
 18 been stayed according to the record. This ruling also said that discovery was no longer stayed.

19 MEMORANDUM OF POINTS AND AUTHORITIES

20 *Landis v. North American Co.*, 299 U. S. 248, 254 (1936) recognized that courts have
 21 inherent power to stay proceedings.

22 *Calkins v. Credit One Bank*, N.A., No. 2:16-cv-2602-APG-NJK, 2017 U.S. Dist. LEXIS
 23 34655, at *3-4 (D. Nev. Mar. 10, 2017) says that motions to stay include motion practice.

1 These three rulings make it clear that a stay suspends deadlines. *Robben v. Carson City*,
2 No. 3:13-cv-0438-RFB-VPC, 2016 U.S. Dist. LEXIS 52197, at *4 (D. Nev. Apr. 19, 2016); *Van*
3 *De Streek v. AMTRAK*, No. C 13-2282 MMC, 2014 U.S. Dist. LEXIS 71270, at *1 (N.D. Cal.
4 May 23, 2014); *Rivers v. Walt Disney Co.*, 980 F. Supp. 1358, 1362 (C.D. Cal. 1997).

5 This Court appears to have granted a stay of proceedings in this case, but additionally
6 ordered some specific actions, including the submission of proposed discovery plans, scheduling
7 orders, and an amended complaint.

8 This Court then clarified that its stay on discovery had ended.

9 Plaintiff understands that it's in the Court's discretion to decide how to grant a motion to
10 stay and is not complaining. Plaintiff just doesn't want to miss any deadlines and is very busy
11 currently drafting an amended complaint. Plaintiff is glad that the discovery is moving forward
12 and would be happy if the case is moving forward as well.

13 Plaintiff asks this court to clarify the following:

14 1) Was there ever a stay on proceedings, which includes motion practice and suspension
15 of deadlines?

16 2) If there was a stay on proceedings, was that stay lifted and when?

17 3) If there is still a stay in place, is this court in its ruling at ECF No. 48 offering to lift the
18 stay temporarily so that I can file a Rule 59(e) motion related to the ruling at ECF No. 44, meaning
19 that I can also **instead** file that Rule 59(e) motion up to 28 days after the stay is lifted?

20 4) Does a stay of civil action in this Court include a stay of motion practice?

21 5) Does a stay of motion practice in this Court toll deadlines in that action?

22 6) Is a motion in this Court granted by its title or by the relief requested?
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1 DATED: November 15, 2023

2 Respectfully submitted,

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4 Jose DeCastro
5 *Pro Se* Plaintiff